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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6241 of 2007
Date of decision: 4.12.2007

Kulwinder Singh

...Petitioner

Versus

Sarwan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Harsh Aggarwal, Advocate for the petitioners.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order dated October 01, 2007 passed by the learned Civil Judge (Senior Division), Nawanshahr whereby evidence of the petitioner/defendant No. 9 has been closed in a suit filed against him for possession by way of specific performance of agreement to sell.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents as the same would unnecessarily delay not only disposal of the present petition but the suit as well.

Learned counsel for the petitioner/defendant no.9 submitted that ample opportunity has not been given to produce the evidence as on December 4, 2006 application for impleading the legal heirs of defendant no.3 was filed and the matter was adjourned to 17.1.2007 for reply thereof. However, the matter was taken up on 16.1.2007 as the Learned Judge was on leave. The matter was adjourned to 26.2.2007 and on that date legal heirs were impleaded and the matter was adjourned to April 3, 2007 for filing amended head note. On April 3, 2007 the case was adjourned to

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August 6, 2007 for evidence of defendant and as such after the closure of the evidence of the plaintiff, three opportunities were granted to the defendants to lead their evidence, however, other defendants in the suit did not lead evidence and the petitioner/defendant no.9 did not lead any evidence under the impression that firstly other defendants will lead their evidence. He further submitted that some of the defendants were proceeded against exparte and now the case is pending for setting aside ex-parte proceedings on the application moved by the said defendants and in case one opportunity is granted to him, he will produce his entire evidence on the date to be fixed by the trial Court for the purpose.

Having heard learned counsel for the petitioner, I find merit in the submissions made by learned counsel for the petitioner/defendant No.9. Keeping in view interest of justice, I grant one opportunity to the petitioner/defendant No. 9 for producing his entire evidence on the date to be fixed by the trial Court for the purpose. However, the same shall be subject to payment of Rs. 2000/- as costs to the plaintiff. The Petitioner/defendant No.9 will be at liberty to take the help of the Court to summon the witnesses.

The revision petition is disposed of in the manner indicated above.

December 04, 2007 **(Rajesh Bindal)**
Pka **Judge**